

Mr. PETERSON. Mr. Chairman, I claim the time in opposition.

The Acting CHAIR (Mr. MCCLINTOCK). The gentleman from Minnesota is recognized for 5 minutes.

Mr. PETERSON. Mr. Chair, I am not exactly sure why this is needed, but I don't have any problem with the amendment.

I yield back the balance of my time.

The Acting CHAIR. The question is on the amendment offered by the gentleman from California (Mr. LAMALFA).

The amendment was agreed to.

□ 1400

AMENDMENT NO. 7 OFFERED BY MR. LUCAS

The Acting CHAIR. It is now in order to consider amendment No. 7 printed in part B of House Report 115-3.

Mr. LUCAS. Mr. Chairman, I have an amendment at the desk.

The Acting CHAIR. The Clerk will designate the amendment.

The text of the amendment is as follows:

At the end of title III, insert the following:

SEC. . TREATMENT OF TRANSACTIONS BETWEEN AFFILIATES.

Section 1a(48) of the Commodity Exchange Act (7 U.S.C. 1a(47)), as so redesignated by section 304(b)(1) of this Act, is amended by adding at the end the following:

“(C) TREATMENT OF TRANSACTIONS BETWEEN AFFILIATES.—

“(I) EXEMPTION FROM SWAP RULES.—An agreement, contract, or transaction described in subparagraphs (A) through (F) shall not be regulated as a swap under this Act if all of the following apply with respect to the agreement, contract, or transaction:

“(I) AFFILIATION.—1 counterparty, directly or indirectly, holds a majority ownership interest in the other counterparty, or a third party, directly or indirectly, holds a majority ownership interest in both counterparties.

“(II) FINANCIAL STATEMENTS.—The affiliated counterparty that holds the majority interest in the other counterparty or the third party that, directly or indirectly, holds the majority interests in both affiliated counterparties, reports its financial statements on a consolidated basis under generally accepted accounting principles or International Financial Reporting Standards, or other similar standards, and the financial statements include the financial results of the majority-owned affiliated counterparty or counterparties.

“(II) REPORTING REQUIREMENT.—If at least 1 counterparty to an agreement, contract, or transaction that meets the requirements of clause (i) is a swap dealer or major swap participant, that counterparty shall report the agreement, contract, or transaction pursuant to section 4r, within such time period as the Commission may by rule or regulation prescribe—

“(I) to a swap data repository; or

“(II) if there is no swap data repository that would accept the agreement, contract or transaction, to the Commission.

“(III) RISK MANAGEMENT REQUIREMENT.—If at least 1 counterparty to an agreement, contract, or transaction that meets the requirements of clause (i) is a swap dealer or major swap participant, the agreement, contract, or transaction shall be subject to a centralized risk management program pursuant to section 4s(j) that is reasonably designed to monitor and to manage the risks associated with the agreement, contract, or transaction.

“(iv) VARIATION MARGIN REQUIREMENT.—Affiliated counterparties to an agreement, contract, or transaction that meets the requirements of clause (i) shall exchange variation margin to the extent prescribed under any rule promulgated by the Commission or any prudential regulator pursuant to section 4s(e).

“(v) ANTI-EVASION REQUIREMENT.—An agreement, contract, or transaction that meets the requirements of clause (i) shall not be structured to evade the Dodd-Frank Wall Street Reform and Consumer Protection Act in violation of any rule promulgated by the Commission pursuant to section 721(c) of such Act.”

The Acting CHAIR. Pursuant to House Resolution 40, the gentleman from Oklahoma (Mr. LUCAS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Oklahoma.

Mr. LUCAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today in support of the Lucas amendment to H.R. 238. This amendment works to provide much-needed relief and certainty for American companies by clarifying how the internal risk reducing transactions amongst the businesses' own affiliates are regulated. Many businesses of all types and sizes in our country use derivatives to manage the risks they face within their daily operations. Inter-affiliate swaps are a commonly used and effective internal risk management tool these businesses rely upon.

Unfortunately, derivatives reforms implemented under Dodd-Frank fail to distinguish the difference between interaffiliate transactions and transactions executed between unaffiliated third parties. Such internal transactions ensure firms to centralize their risk management activities between affiliate counterparties and do not create additional counterparty exposure outside of a corporate group. This amendment, therefore, clarifies that interaffiliate swaps are not subject to the same regulatory requirements as external, market-facing swaps between third parties.

In addition, this amendment is consistent with the CFTC's attempts to provide similar relief through rule exceptions and no-action letters. While such actions by the CFTC have provided relief, they do not provide a workable, clear, and predictable set of regulations that market participants can effectively operate under.

This amendment will keep in place appropriate regulatory reforms and provide much-needed regulatory and legal certainty for U.S. companies. Please join me in supporting this needed reform.

Mr. Chairman, I reserve the balance of my time.

Ms. MAXINE WATERS of California. Mr. Chairman, I rise in opposition.

The Acting CHAIR. The gentleman is recognized for 5 minutes.

Ms. MAXINE WATERS of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to my friend Mr. LUCAS' amendment. This

amendment rejects the bipartisan compromise negotiated over 4 years to strike the right balance regarding interaffiliate swaps. Indeed, Democrats like Ms. MOORE and Republicans like Mr. STIVERS carefully negotiated a way to balance the needs of operating companies like airlines and refineries. This amendment, however, would exempt swaps between affiliates, including megabanks like Goldman Sachs and J.P. Morgan, from the mandatory margin, clearing, trade execution, capital, and every other protection under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

While we generally agree that swaps between affiliated corporate entities do not pose a systemic threat, we are deeply troubled about this desire to undermine all swaps rules and harm our economy.

During testimony on a similar version of this amendment, the CFTC's former chairman, Gary Gensler, stated that such an exemption would provide a big loophole around our derivatives rules and that it would “blow a hole in Dodd-Frank.”

Specifically, the amendment exempts affiliate swaps no matter where the affiliate resides. So, an affiliate could reside in a foreign jurisdiction that lacks any swaps regulation and share its risks with a U.S. affiliate, but our regulators would be prohibited from imposing any safeguards such as initial margin or capital requirements. Why would we pass such a self-inflicted wound?

With that, Mr. Chairman, I urge all Members to vote “no” on this amendment.

I yield back the balance of my time.

Mr. LUCAS. Mr. Chairman, I yield myself the remainder of my time simply to note to my colleagues the goal of this amendment is to allow business entities to efficiently manage their risk. If that risk is managed internally where it is no threat to third parties then they should have the ability to do it in the most efficient fashion. As I noted in my earlier comments, CFTC has provided similar relief through rule exceptions and no-action letters. What we are trying to do here is clarify this situation.

As far as one of the previous chairmen of the CFTC, while a very enthusiastic regulator, I would note that I and many participants down through the years have disagreed with his interpretations on several things. But, with that, I have the greatest respect for my colleague over there. This is a sincere difference of opinion.

Mr. Chairman, I yield the remainder of my time to the gentleman from Texas (Mr. CONAWAY) who is the chairman of the full committee.

Mr. CONAWAY. Mr. Chairman, I support the gentleman's amendment.

I would point out that at the end of his amendment is an anti-evasion requirement which would allow the CFTC to watch for the kinds of things that